No. (1) .....

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

JUDITH SPALETTA,

Petitioner,

V.

CALIFORNIA WORKERS' COMPENSATION APPEALS BOARD, COUNTY OF MENDOCINO AND CLAIMS MANAGEMENT, INC.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEAL, STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION FIVE

PETITION FOR WRIT OF CERTIORARI

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45pp

QUESTIONS PRESENTED

1. Whether Petitioner was denied her Procedural Due Process right to notice in the workers' compensation appeals board June 15 Order, when that order failed to provide in writing evidence relied upon and detailed reasons therefor, required by California Labor Code, Section 5908.5, a state statute enacted to enforce Fourteenth Amendment Procedural Due Process guarantees?

2. Whether Petitioner was denied her Procedural Due Process right of reply pursuant to California Rule of Court 57(b), when the state court of appeal granted Petitioner until October 20, 1993, an extension to exercise her right of reply, but then on September

14, 1993, denied Petitioner's petition for writ of review prior to receiving her Rule 57(b) reply?

TABLE OF CONTENTS

Table of Authorities vi

Petition 1

Court Decisions and Administrative Orders Below 2

Jurisdiction 4

Statement of the Case 4

1. The board's June 15 Order fails to comply with the legislatively mandated public purpose of Labor Code, Section 5908.5, to prevent the careless and arbitrary abrogation of injured workers' rights by stating evidence relied upon and by specifying in detail the reasons for denial of those rights to assist the reviewing court in ascertaining the principles relied upon. 7

2. State court of appeal granted petitioner an extension until October 20, 1993, to exercise her right of reply to the board answer, but then on September 14, 1993, denied Petitioner's petition for writ of review prior to receiving her Rule 57(b) reply. 11

REASONS FOR GRANTING WRIT 13

(1) Certiorari should be granted because the state court of appeal in its September 14 Order has ignored the requisites of the state statutory requirement, enforcing Due Process notice requirements on an administrative body for the purposes of (1) demonstrating that the body is performing its function of review and (2) providing appellate courts with notice of the bases for the administrative decision. 13

(2) Certiorari should be granted, because Petitioner was denied her Procedural Due Process right of reply, secured by California Rule of Court 57(b), when the state court of appeal denied her petition for review prior to receiving her reply to the board answer and after granting her an extension to file that reply. 17

CONCLUSION 20

APPENDIX - DECISIONS, ORDERS, CONSTITUTIONAL PROVISIONS AND STATUTES A1

Court of Appeal
September 14 Decision A2

Court of Appeal August 27
Reply Extension Order A3

Board June 15 Decision A4

Workers' Compensation Judge
April 9 Order A9

California Supreme Court
November 10 Order A12

Fourteenth Amendment,
U.S. Constitution A13

Art. XIV, § 4,
California Constitution A13

California Labor Code,
Section 3201 A16

California Labor Code,
Section 5950 A16

TABLE OF AUTHORITIES

CASES

Bridges v. Wixon,
326 U.S. 135 (1945) 18

Cleveland Bd. of Education v. Loudermill,
470 U.S. 532 (1985) 18

Compton v. Naylor
392 F. Supp. 575 (D.C. N.D. Texas 1975) 15

Fidelity & Casualty Co. of New York v. WCAB (1980)
103 Cal. App. 3d 1001,
163 Cal. Rptr. 339
6, 7, 10, 19

Granado v. WCAB (1968)
69 C. 2d 399
71 Cal. Rptr. 678
445 P. 2d 294 10,11

Interstate Commerce Comm. v. Louisville & Nashville R.R. Co.,
227 U.S. 88 (1912) 19

Morgan v. U.S.,
298 U.S. 468 (1936) 20

North Carolina v. Pearce,
395 U.S. 711 (1969) 16

Ohio Bell Telephone Co., v. Public Utilities Commission,
301 U.S. 292 (1937) 19

Ortwein v. Schwab,
410 U.S. 656 (1973) 15

Painter v. WCAB (1985)
166 Cal. App. 3d 264
212 Cal. Rptr. 354 6

Robinson v. Beto,
426 F. 2d 597 (5th Cir. 1970) 16

U.S. v. Caceres,
440 U.S. 741 (1979) 18

CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

FOURTEENTH AMENDMENT,
UNITED STATES CONSTITUTION
6, 7, 13, 15, 16, 17, 18, 19, 20

ARTICLE XIV, § 4,
CALIFORNIA CONSTITUTION 5, 14

California Labor Code,

Section 3201 5

Section 3202 14, 16

Section 5908.5
5, 14, 15, 16, 21

Section 5950 6

California Rule of Court 57(b)
8, 11, 12, 13, 17, 18, 19

No.

IN THE SUPREME COURT
OF THE UNITED STATES
October Term, 1993

JUDITH SPALETTA,
Petitioner,

v.

CALIFORNIA WORKERS' COMPENSATION APPEALS BOARD, COUNTY OF MENDOCINO AND CLAIMS MANAGEMENT, INC.
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEAL, STATE OF CALIFORNIA, FIRST DISTRICT, DIVISION FIVE

Petitioner Judith Spaletta respectfully prays that a Writ of Certiorari issue to review the (1) September 14 Order of the state court of appeal denying Petitioner's discretionary petition for review of

the June 15 Order of the California Workers' Compensation Appeals Board, an administrative review body, (2) that June 15 Order of the Board and (3) the April 9 Order of an administrative judge referred to in the state court of appeal September 14 Order. Appendix, at Page A2.

COURT DECISIONS AND ADMINISTRATIVE ORDERS BELOW

The state court of appeal decision, entered September 14, 1993, denying discretionary review of the Board's June 15 Order, which is not published in official reports, is set forth at Page A2 of the Appendix. The state court of appeal order, entered August 27, 1993, extending to October

20, 1993 Petitioner's time to reply to respondents' answers to her petition for writ of review, is set forth at Page A3 of the Appendix.

The June 15 Order of the California Workers' Compensation Appeals Board, an administrative review body, which is not published in official reports, is set forth at Pages A4-A8 of the Appendix.

The April 9 Order, the order of an administrative judge, which the state court of appeal September 14 Decision implements and upon which the Board's administrative review June 15 Order is based, which is not published in official reports, is set forth at Pages A9-A11 of the Appendix.

The November 10, 1993 order of the Supreme Court of California, denying

Petitioner's discretionary petition for review before that state court of last resort, which is not published in official reports, is set forth at Page A11 of the Appendix.

JURISDICTION

The order of the Supreme Court of the State of California was entered on November 10, 1993. Jurisdiction of this Court is invoked under 28 U.S.C. 1257, 28 U.S.C. 2101 (c) and Supreme Court Rules 13.1 and 13.4.

STATEMENT OF THE CASE

The California Workers' Compensation Appeals Board (hereafter the "board") is an administrative body,

established under the Constitution and Laws of the State of California. California Constitution, Article XIV, Section 4; California Labor Code (hereafter "Labor Code"), Sections 3201 et seq. See Appendix, Pages A13-A15.

Labor Code, Section 5908.5, requires that, when the appeals board renders a decision on a petition for reconsideration of an order of an administrative judge, that such a decision must state in writing the evidence relied upon by the board and specify in detail the reasons for the decision:

"Section 5908.5. Decision by board.

"Any decision of the appeals board granting or denying a petition for reconsideration (emphasis added) or affirming, rescinding, altering or amending the original findings, order, decision or award following reconsideration shall be made by the

appeals board and not by a workers' compensation judge and shall be in writing, signed by a majority of the appeals board members assigned thereto, and shall state the evidence relied upon and specify the reasons for the decision (emphasis added).

"The requirements of this section shall in no way be construed so as to broaden the scope of judicial review as provided for in Article 2 (commencing with Section 5950) of this chapter."

The board opinion and order that is the subject of the court of appeals September 14 Order in this Petition and designated herein as the June 15 Order fails to attempt to meet the above Due Process standard that is intended to demonstrate that the board has properly performed its function to provide effective review. Painter v. WCAB (1985) 166 Cal. App. 3d 264, 270-271, 212 Cal. Rptr. 354, 358. Fidelity & Casualty Co. v. WCAB (1980) 103 Cal.

App. 3d 1001, 1016, 163 Cal. Rptr. 339, 347.[1]

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[1] The issue of the violation of Procedural Due Process through careless and arbitrary action under Labor Code, Section 5908.5 was first raised, immediately after the entering of the board's June 15 Order, in the petition filed by Petitioner for discretionary review of that order by the court of appeal, citing Fidelity & Casualty Co. v. WCAB, supra, at 347. Petitioner's Petition to Court of Appeal, at Page 9.

1. The board's June 15 Order fails to comply with the legislatively mandated public purpose of Labor Code, Section 5908.5, to prevent the careless and arbitrary abrogation of injured workers' rights by stating evidence relied upon and by specifying in detail the reasons for denial of those rights to assist the reviewing court in ascertaining the principles relied upon.

The board issued the June 15 Order denying Petitioner's petition for reconsideration, failing therein to perform its duty pursuant to Labor

Code, Section 5908.5:

a. To make a factual determination of the content of the reconsidered April 9 Order that the board in its conclusory statement in the June 15 Order argues is "an interim or procedural order not subject to reconsideration;" June 15 Order, Appendix, at Page A8;

b. To identify "the substantive question" in the June 15 Order about which the board offers there has no final decision; June 15 Order, at Appendix Page A7; and

c. To state legal authority in the June 15 Order for the board's standard of review that is not inconsistent with the outdated 1985 citation stated therein; June 15 Order, at Appendix Pages A7-A8.[2]

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[2] The board August 17 answer, to which Petitioner was not afforded her Rule 57(b) right of reply to the state court of appeal, cited cases decided in 1987, 1988 and 1989 in support of its proposed standard of review in the June 15 Order. Board August 17 Answer (8:11-13; 8:24-25). These cases sustain Petitioner's argument in her petition to the state court of appeal that the 1985 citation in the June 15 Order is outdated. Petitioner's Petition to Court of Appeal, at Pages 33 to 37.

The board's June 15 Order, based on these failures, dismissed Petitioner's petition for reconsideration, without considering (1) the effective denial, without a hearing prior to the issuance of the reviewed April 9 Order on the issues of Petitioner's injured worker right to the presence of an attorney and her statutorily-secured right to the presence of her physician to monitor the defense medical examination and (2), most importantly, without consideration of information about the absence of availability of those professionals on the fast-approaching April 26 examination date scheduled in that April 9 Order:

"The WCJ's present order compelling applicant's attendance at a medical examination with certain protections for applicant is an interim or procedural order not subject to

reconsideration." June 15 Order, at Appendix Page A8.

The board in the June 15 Order has a duty under state law to prevent the careless and arbitrary abrogation of Petitioner's rights, protecting the medical privacy of her physical and psychological person, secured by the California Constitution, by stating evidence relied upon and by specifying in detail the reasons for denial of those rights to assist the reviewing court in ascertaining the principles relied upon by the board in abrogating those protections. Labor Code, Section 5908.5. Granado v. WCAB, (1968) 69 C. 2d 399, 404-407, 71 Cal. Rptr. 678, 682-683, 445 P. 2d 294, 298, 299. Fidelity & Casualty Co. v. WCAB, supra, 103 Cal. App. 3d, at 1016, 163

Cal. Rptr., at 347.

The board has the duty to construe workers' rights favorably for the protection of an injured worker's basic rights to the presence of an attorney and her attending physician, as well as other protections, at a proposed defense medical examination. Labor Code, Section 3202. See Pages 13 and 14 hereof. Granado v. WCAB, supra, 69 C. 2d, at 404, 71 Cal. Rptr., at 682, 445 P. 2d, at 298.

2. State court of appeal granted petitioner an extension until October 20, 1993, to exercise her right of reply to the board answer, but then on September 14, 1993, denied Petitioner's petition for writ of review prior to receiving her Rule 57(b) reply.

The court of appeal on August 27, 1993, granted Petitioner an extension until October 20, 1993, to reply to the board answer to her petition for writ

of review. Appendix, at Pages A2-A3.

California Rule of Court 57(b) reads as follows:

"(b)[Answer and briefs] Within 20 days after service of the petition, the board and any real party in interest may serve and file or join in the filing of an answer and brief. Within 10 days after service of an answer, the petitioner may serve and file a reply. Service of the answer and reply shall also be made upon all adverse parties."

Nevertheless, that appellate court, after granting Petitioner an extension to exercise her Rule 57(b) reply right, filed on September 14, 1993, its order denying her petition and sustaining the scheduling of the medical examination under the April 9 Order. Appendix, at Pages A2-A3.

The court of appeal order was entered on September 14, five (5) weeks prior to the date due for Petitioner's reply. Petitioner had not yet filed

her Rule 57(b) reply to the board answer.[3]

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[3] The issue of the violation of Petitioner's Procedural Due Process right of reply pursuant to California Rule of Court 57(b) was first raised, immediately after the entering of the court of appeal September 14 Order, in Petitioner's petition for discretionary review to the State Supreme Court, at Pages i, 6 and 15.

REASONS FOR GRANTING WRIT

(1) Certiorari should be granted because the state court of appeal in its September 14 Order has ignored the requisites of the state statutory requirements, enforcing Due Process notice requirements on an administrative body for purposes of (1) demonstrating that the body is performing its function of review and (2) providing appellate courts with notice of the bases for the administrative decision.

The California Legislature has spoken in the workers' compensation act that:

"This division and Division 5 (commencing with Section 6300) shall be liberally construed by the courts with the purpose of extending their benefits for the protection of persons injured in the course of their employment." Labor Code, Section 3202.

The California Legislature under the specific authority of the State Constitution has provided a means for discretionary court review of administrative board decisions in the provisions of the workers' compensation act, with the stated purpose that such protections be liberally construed in the favor of injured workers. Article XIV, Section 4; Labor Code, Section 5908.5; Labor Code, Section 3202. The board may not replace that Legislative mandate and place limitations on an injured worker's right to seek such review which are discriminatory, arbitrary and contrary to that

legislative policy. Labor Code, Section 5908.5. See Pages 7 to 11 hereof.

Procedural Due Process is fulfilled by an opportunity to be heard in an initial hearing which is fair and not unreasonably burdened. In this case, the state workers' compensation law provides an enlightened and unfettered means of board review, secured by Labor Code, Section 5908.5. Contrary to that stated policy, the board has placed its own unreasoned distinctions that impede open and equal access to board review and to later appellate court review by an injured worker. Ortwein v. Schwab, 410 U.S. 656 (1973). See also Compton v. Naylor, 392 F. Supp. 575 (D.C. N.D. Texas 1975).

Due Process requires that once the state establishes avenues of review, those avenues must be kept open and free of unreasoned distinctions that impede open and equal access to the courts. North Carolina v. Pearce, 395 U.S. 711 (1969). Here, the statutory scheme encouraged open and equal access to board review and later appellate review by an injured worker representing herself. Here, contrary to that statutory scheme, Judith Spaletta was not welcomed by the reviewing administrative body, although that body was cautioned against unreasoned denial of access by the statutory scheme itself. Labor Code, Section 3202; Labor Code, Section 5908.5. See in contrast Robinson v. Beto, 426 F. 2d 797 (5th Cir., 1970).

(2) Certiorari should be granted, because Petitioner was denied her Procedural Due Process right of reply, secured by California Rule of Court 57 (b), when the state court of appeal denied her petition for review prior to receiving her reply to the board answer and after granting her an extension to file that reply.

The state court of appeal granted Petitioner an extension until October 20, 1993, to exercise her right of reply to the board answer, but then on September 14, 1993, denied Petitioner's petition for review without receiving her Rule 57(b) reply, a full five (5) weeks before that reply was due. Appendix, at Pages A2-A3.

Rule 57(b) and the extension provided by the court of appeals thereto provided notice to Petitioner Spaletta that she would have an opportunity to rebut the answer of her adversary respondent. This right of

rebuttal was not honored.

The denial of Petitioner's Rule 57(b) rebuttal right denied injured worker Spaletta her Due Process right to give in rebuttal her side of the story. Cleveland Bd. of Education v. Loudermill, 470 U.S. 532, 546 (1985). The violation of a rule designed to afford due process of law by providing safeguards against unfair procedures denies a right secured by the Due Process Clause. U.S. v. Caceres, 440 U.S. 741, 749 (1979), citing Bridges v. Wixon, 326 U.S. 135, 152-153 (1945).

The summary dismissal of injured worker Spaletta's petition for review to the court of appeal, without an opportunity for rebuttal to respondents' answer does not indicate what was done by the appellate court in

both finding facts and applying law. From the standpoint of Due Process - the protection of the individual against arbitrary action - we do not know upon what facts or law the state appellate court rested to make its conclusion. Ohio Bell Telephone Co. v. Public Utilities Comm., 301 U.S. 292, 302 (1937), Cardozo, J.

There is no way for Petitioner to maintain her rights without being given the opportunity for rebuttal provided by Rule 57(b). Interstate Commerce Comm. v. Louisville & Nashville R. R. Co., 227 U.S. 88, 93 (1912). See also Fidelity & Casualty Co. v. WCAB, supra, 103 Cal. App. 3d, at 1016, 163 Cal. Rptr., at 347. Without that right of rebuttal noticed to Petitioner in Rule 57(b) and recognized by the court of

appeal in its extension of time to file her reply, Petitioner Spaletta is operating in an essentially structure-less procedural environment where the vigilance of the Petitioner provides the only insurance against arbitrary and capricious denial of Due Process.

The full hearing requirement of a judicial proceeding requires that the facts that underlie an order result from the interplay of argument. Morgan v. U.S., 298 U.S. 468, 480-481 (1936).

CONCLUSION

For the above reasons, a writ of certiorari should issue to review the state appellate court September 14 Order and the board June 15 Order and administrative judge's April 9 Order embraced thereby.

In the alternative, Petitioner respectfully requests this Court, in accordance with Supreme Court Rule 16.1, to summarily reverse the court of appeal September 14 decision and direct the court of appeal to order the board to review and decide Petitioner's petition for reconsideration of the administrative judge April 9 Order, in accordance with the standards set forth in Labor Code, Section 5908.5.

Dated: February 7, 1994

Respectfully submitted,

/s/ James Reyer, Esq.

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Counsel to Petitioner

APPENDIX

DECISIONS, ORDERS, CONSTITUTIONAL PROVISIONS AND STATUTES

COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE
FIRST APPELLATE DISTRICT
DIVISION FIVE

FILED
SEP 14 1993
COURT OF APPEAL
First Dist.
RON D. BARROW,
Clerk

Judith Spaletta,
Petitioner,
vs.
California Workers' Compensation Appeals Board, County of Mendocino, et al.,
Respondents.

No. A062593
WCAB Case No. 87 SRO 51387

BY THE COURT:

The petition for review is denied. The matter is returned to the Workers' Compensation Appeals Board for the purpose of allowing respondent County of Mendocino to reschedule a medical examination in compliance with Workers' Compensation Judge David Applen's Order Compelling Medical Examination dated April 9, 1993.

Dated: SEP 14 1993 PETERSON, P.J.

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION FIVE

JUDITH SPALETTA, 1st Civ. No. A062593
Petitioner,
versus.
CALIFORNIA
WORKERS COMPENSATION
APPEALS BOARD, CASE NO.
COUNTY OF MENDOCINO, 87 SRO 51387
and CLAIMS MANAGEMENT, INC. 87 SRO 51333
Respondents

ORDER EXTENDING TIME
TO FILE ~~ANSWER~~ REPLY

Good cause appearing, it is ordered that Petitioner, JUDITH SPALETTA, may have until and including October 20, 1993 within which to file a reply to respondents' answerss [sic] to the petition for writ of review.

Dated: AUG 27 1993

KING, J.
ACTING Presiding Justice

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

JUDITH SPALETTA, Applicant, vs. COUNTY OF MENDOCINO; Permissibly Self-Insured, Defendant(s).	Case No. 87 SRO 51333 87 SRO 51387

OPINION AND ORDER DISMISSING
PETITION FOR RECONSIDERATION

Applicant Judith Spaletta, in propria persona, seeks reconsideration of the order issued by the workers' compensation judge ("WCJ") on April 9, 1993. The WCJ ordered applicant to appear for a medical examination by Thomas Leonard, M.D., on April 26, 1993. The WCJ ordered defendant to provide a certified shorthand reporter to transcribe the history taking and the physical examination process and to prepare a typed transcript of the proceedings to file with the Board with a copy to applicant. He ordered that applicant may

employ at her own expense a physician to be present at the examination. He allowed applicant to have an attorney, if she wishes, attend the medical examination with the qualification that the attorney be one who represents her in these proceedings with prior notification to the Board. The WCJ granted applicant's request to have her husband present in the examination room. The WCJ precluded the performance of any diagnostic tests or procedures which were painful, protracted, or intrusive without further specific order by the Board, except for a blood sample which, if a Dr. Leonard deemed necessary, to be drawn by an independent laboratory geographically convenient to applicant. Except as specifically granted, the WCJ denied applicant's request for a protective

order.

Applicant contends error. She claims that she is unable to pay for the cost of her personal physician Jeffrey Anderson, M.D., at $250.00 an hour to attend the examination with her. She requests an order for defendant to prepay Dr. Anderson for an anticipated cost between $1,250.00 and $2,000.00, and to provide at least 6 weeks advanced notice of the medical examination to allow Dr. Anderson to plan for the examination. She alleged that his presence is necessary to provide a balanced examination. She claims that she is entitled to medical-legal costs.

Applicant further requests she be allowed to tape record the examination because the reported can make mistakes and a transcript does not reflect the

tone and manner of an examination. She requests that Dr. Leonard be ordered to clarify his requirement of 48 business hours advance notice for cancellation of the examination. She requests that Dr. Leonard reduce the notification time because it is oppressive and chilling.

Based on our review of the record, we will dismiss applicant's Petition for Reconsideration.

A petition for reconsideration is properly made only by a party who is aggrieved by a final order, decision, or award. (Lab. Code, §§ 5900, subd. (a), 5902, 5903.) Interim or procedural orders, which are issued before a decision is made on the substantive question are not subject to attack by a Petition for Reconsideration. (California Workers' Compensation

Practice [Cont.Ed.Bar 1985] 10.4, p. 353.) The WCJ's present order compelling applicant's attendance at a medical examination with certain protections for applicant is an interim or procedural order not subject to reconsideration. Therefore, we will dismiss the petition for reconsideration.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration filed April 23, 1993, be, and hereby is, DISMISSED.

WORKERS' COMPENSATION APPEALS BOARD

/s/ John S. Oda

I CONCUR /s/ J. Wiegand

/s/ Jacob Margosion

DATED AND FILED IN SAN FRANCISCO, CALIFORNIA
JUN 15 1993
SERVICE BY MAIL ON SAID DATE TO ALL PARTIES SHOWN ON THE OFFICIAL ADDRESS RECORD

mnl [SEAL]

WORKERS' COMPENSATION APPEALS BOARD
OF THE STATE OF CALIFORNIA

JUDITH SPALETTA, Case No.SRO 51387
Applicant,
vs.
COUNTY OF MENDOCINO, FILED
Defendants. APR 9 1993

ORDER COMPELLING MEDICAL EXAMINATION

After reviewing the defendant's February 24, 1993 Petition Compelling Attendance at Medical Examination and the responses thereto and based on the information and oral arguments presented at the conference of April 2, 1993, good cause appearing,

IT IS ORDERED that Judith Spaletta appear for medical examination by Thomas Leonard, M.D. at 95 Montgomery Drive Suite 222, Santa Rosa, California, at 3:45 p.m. on April 26, 1993.

IT IS FURTHER ORDERED that defendant County of Mendocino have present at the the examination a certified shorthand

reporter for the purpose of transcribing the history taking and physical examination process itself. The stenographer shall prepare a typed transcript of the proceeding with the original of that transcript to be filed with the WCAB and a copy provided to Judith Spaletta at defendant's cost. If Judith Spaletta so desires she may employ at her own expense a physician to be present at this examination. Should she choose to retain an attorney to represent her in these proceeding [sic] that attorney, after giving notification to the Board of his representation in this matter, shall also be permitted to attend the examination. Judith Spaletta's request to have her husband present in the examination room is granted.

Judith Spaletta shall not be required to endure any diagnostic test or procedure that is painful, protracted or intrusive without further specific orders by this Board, except that in the event that Dr. Leonard believes a blood sample is required this procedure is authorized so long as the blood is drawn by an independent laboratory that is geographically convenient to the applicant.

Except as specifically granted above Judith Spaletta's request for protective orders are hereby denied.

/s/ DAVID A. APPLEN
Workers' Compensation Judge

Served by mail on persons as shown on the Official Address Record
DATE: APR 9 1993 by L. Hunt
/s/ L. Hunt

First Appellate District,
Division Five, No. A062593
S035180

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

JUDITH SPALETTA, Petitioner,
v.
WORKERS' COMPENSATION APPEALS BOARD
Et Al., Respondents

SUPREME COURT
FILED
NOV 10 1993
Robert Wandruff Clerk
DEPUTY

Petition for review DENIED.

Arabian
Acting Chief Judge

CONSTITUTION OF THE UNITED STATES OF AMERICA

AMENDMENT XIV

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

CALIFORNIA CONSTITUTION ART. XIV, § 4

§ 4. Workers' compensation The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all

workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its respects, including the establishment and management of a State compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, (emphasis provided) to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character; all of which matters are expressly declared to be the social public policy of this State binding upon all departments of the State government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the

courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation as herein defined.

The Legislature shall have power to provide for the payment of an award to the state in the case of death, arising out of and in the course of the employment, of an employee without dependents and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.

California Labor Code, Section 3201

§3201. Divisions 4 and 5; Purpose

This division and Division 5, (commencing with Section 6300) are an expression of the police power and are intended to make effective and apply to a complete system of workers' compensation the provisions of Section 4 of Article XIV of the California Constitution.

California Labor Code, Section 5950

§5950. Writ of review; Application

Any person affected by an order, decision, or award of the appeals board may, within the time specified in this section, apply to the Supreme Court or to the court of appeal for the appellate district in which he resides, for a writ of review, for the purpose of inquiring into and determining the lawfulness of the original order, decision, or award or of the order, decision, or award following reconsideration. The application for writ of review must be made within 45 days after a petition for reconsideration is denied, or if a petition is granted or reconsideration is had on the appeal board's own motion, within 45 days after the filing of the order, decision, or award following reconsideration.